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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 524

JOHN E. LYDON AND MARTHA LYDON, HIS WIFE,
Petitioners,

vs.

R. W. CARNEY AND DOROTHY CARNEY, HIS WIFE,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

JOHN E. LYDON,
Petitioner.

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

Petitioners John E. Lydon and Martha Lydon, his wife, petition this Honorable Court for a Writ of Certiorari to review that certain judgment of the Supreme Court of the State of Washington, entered on November 30, 1950, in the above entitled cause, and submit the following grounds and reasons therefor:

Decision for Review

The full and final decision of the Supreme Court of the State of Washington consists of two opinions of the Court

accompanying its remittitur entered on November 30, 1950 as follows:

1. Opinion rendered on August 1, 1950, unreported, pertinent portions whereof are quoted below:

"We gather from the remarks of the trial judge when ruling upon the motion for a judgment notwithstanding the verdict that he considered a licensed sanipractor when operating within his school of treatment should be governed by the same rules applicable to a physician, and, following the pronouncements made in Fritz vs. Horsfall, 24 Wn. (2d) 14, 163 P. (2d) 148, was of the opinion that malpractice was not established. The analogy does not apply to a drugless healer because he is restricted by statute to that which is permitted under the license issued to him. Rem. Rev. Stat., Secs. 10114 and 10123 (P. P. C. Secs. 517-5, -25); Martin v. Department of Social Security, 12 Wn. (2d) 329, 121 P. (2d) 394; State v. Houck, 32 Wn. (2d) 681, 203 P. (2d) 693.

"This is not a case where it can be said respondent was negligent in the performance of that which he undertook to accomplish. He knew appellant had diabetes. It was not what he prescribed or instructed appellant to do that created a foundation for legal liability. His fault lay in the fact that his method of treatment did not supply the pancreas deficiency necessary to retard the progress of the ailment with which appellant was suffering. There was evidence before the jury sufficient to support a finding that respondent knew or should have known, or discovered, his method of treatment for diabetes was not of a character productive of reasonable success. When such a situation arises, it then becomes the duty of a drugless healer to cease and desist from treating the patient and to advise him to seek other relief. Kelly v. Carroll, 136 Wash. Dec. 445, 219 P. (2d) 79."

2. Thereafter, the State Supreme Court, upon deeming its foregoing opinion incomplete, by virtue of its rules, for entry of final judgment in the case, recalled its remittitur from the trial court and on November 30, 1950, rendered a second and complementary decision as follows:

"On Recall of Remittitur

"A departmental opinion in this case was filed August 1, 1950, and was published in 136 Wash. Dec. at page 815. We reversed the judgment notwithstanding the verdict and remanded the case to enter a judgment thereon.

"We have recalled the remittitur so that we may review and determine the validity of the ruling of the trial court denying the motion of respondent for a new trial, as prescribed by Rule of Practice 14, 18 Wn. (2d) 42-a.

"Our attention is called to some remarks made by the trial judge when he considered the motion for a new trial, from which it is argued that he must have been of the opinion that the jury was influenced by passion and prejudice and believed that the respondent should not have treated appellant for the disease with which she was suffering. Upon this basis, respondent urges that we should accept the attitude of the trial judge and grant the motion for a new trial, notwithstanding the fact that even though he may have entertained such views, he denied the motion.

"It is not our province to speculate on what the jurors may have had in mind, nor to consider views expressed by the trial judge when the motion for a new trial was before the court. Our study of the record convinces us that no error was committed during the progress of the trial warranting a setting aside of the verdict of the jury. The evidence was sufficient from both a legal and factual standpoint to sustain the verdict, and nothing has been presented by respondent on this appeal requiring a reversal of the order.

"The order of the trial court denying the motion for a new trial is affirmed, and the cause again remanded for the entry of judgment upon the verdict of the jury."

Basis of Jurisdiction

1. The State Supreme Court's judgment is in conflict with its previously rendered decisions in regards to the law and principles governing the relations of physician and patient; such conflict of the decision herein is studied, considered and intentionally discriminatory; and same was expressly pointed out to the lower court by your petitioners in their first petition for rehearing, filed following the State Court's first opinion, as follows:

"We respectfully submit that a malpractice case, whether affecting a sanipractor, a chiropractor, a dentist, an optician, a surgeon or an oculist, can only be predicated upon the same premises. The respondent either committed malpractice by giving the wrong treatment or failing, at any rate, to give the proper treatment, from which there resulted injuries compensable in damages; or else he is not guilty of malpractice. To apply any other standard in this case would mean to put all non-medical schools of healing completely out of business, since they would be virtually charged with the duty to cure, or produce success at any rate, and that failing they would be liable for malpractice.

"In Brooks v. Hurd, 144 Wash. 276, 247 Pac. 238, this court said, apropos of a malpractice case brought against a sanipractic physician:

> 'In general, the court submitted the case to the jury upon perfectly proper instructions as to the law governing the relations of physicians and patients. Under the statutes above cited, drugless healers are strictly limited, each to his own school of practice, and forbidden to invade the field of practice of any other school of drugless healing or of any regular school of

healing. Otherwise the principles of law governing relation of regular physicians and surgeons and their patients govern as to drugless healers.' ''

(Respondents' petition for rehearing—(R. 21).)

To said petition the State Supreme Court duly made and entered its order as follows:

"The Court having considered the respondents' petition for a rehearing in the above entitled cause together with the appellants' answer thereto,

"It is ordered that the petition for a rehearing be and it is hereby denied."

2. The State Supreme Court's said judgment is discriminatory and denies respondents the equal protection of the laws, guaranteed by the XIV Amendment of the U. S. Constitution; and such discrimination was expressly submitted to the State Supreme Court by your petitioners' second petition filed following the Court's last opinion and entry of judgment in the case, entitled "Petition to Recall Remittitur Pending Steps for Appeal to U. S. Supreme Court" and argument thereon as follows:

"4. That respondents seriously intend to seek a Writ of Error or a Writ of Certiorari before the U. S. Supreme Court with the object of having reviewed the Supreme Court's decision on the following grounds, specifically:

A. That said decision is discriminatory in that it lays down a different rule of law for sanipractic physicians in a malpractice case than is applicable to medical physicians and such question was raised before Your Honors by respondent's petition for rehearing.

B. In that it places a stricter duty upon sanipractic physicians towards their patients than is required of medical

physicians, and the violation of such duties is made the basis of an action as for malpractice."

(Petition to Recall Remittitur Pending Steps for Appeal to U. S. Supreme Court, R. 31.)

"In our petition to recall the decision we ask, moreover, for general relief and may we now submit that not only the remittitur should be recalled and, of course, the judgment entered by the trial court vacated; *but moreover the Court should consider our objection and contention that said decision is discriminatory and in violation of Article XIV of the Federal Constitution in that it announces and applies one set of principles of law on a sanipractic physician in a malpractice case, but a different law applicable to medical practitioners in such cases, as heretofore pointed out in our briefs and petitions to the Supreme Court.*"

(Reply to Appellant's Memorandum Resisting Recall of the Remittitur (R. 34).)

To said last mentioned petition the said Supreme Court duly made and entered its order in terms as follows:

"The Court having considered the respondents' petition for a recall of the remittitur herein; the Appellant's memorandum in answer thereto; and the respondents' reply to the appellants' memorandum,

"It is ordered that the petition for the recall of the remittitur be and it is hereby denied."

Questions Presented and Specification of Errors

1. Whether, and your petitioner so submits, the State Supreme Court is in error by reversing the trial court's judgment in this case upon applying rules of law in direct conflict with its previous holding in cases affecting (a) sanipractors or drugless healers and (b) physicians in gen-

eral in their relationship with and duties towards their patients; particularly when it notices expressly by its decision such previously laid down rules of law.

2. Whether the State Supreme Court is in error by withholding, modifying and denying outright to your petitioner rights, benefits and immunities sanctioned by the Courts, universally as the law in malpractice actions, while extending same and specially reserving such rights to physicians and surgeons in general, the statutes of the State of Washington on drugless healing notwithstanding.

3. Whether the State Supreme Court erred in laying down by its decision and judgment certain special duties in your petitioner's relations towards his patients, not existing in and non-applicable to physicians and surgeons in general and in predicating negligence and awarding judgment based upon such special duties; and

Whether under both 2 and 3 preceding paragraphs under this heading, as your petitioner hereby submits, the lower court has denied your petitioner the equal protection of the laws guaranteed by the XIV Amendment of the U. S. Constitution.

Reasons Relied On for Certiorari

1. CONFLICT. The statutes of the State of Washington, copy whereof is appended to this petition, authorize the treatment of human disease in any form by licensed sanipractors through their accepted methods, which by their nature exclude and even deny (a) use of drugs (b) use of surgery.

In *Fritz* v. *Horsfall,* 24 Wn. (2d) 14, 163 P. (2d) 148, certain rules of law governing actions based upon malpractice as regards physicians and surgeons are laid down by the State Supreme Court.

Prior to that, the same Supreme Court ruled in the case of *Brook* v. *Hurd,* 144 Wash. 276, 247 Pac. 238, that "the

principles of law governing the relation of regular physicians and surgeons and their patients govern as to drugless healers."

In departure from and direct conflict with its said decision the State Supreme Court, while reserving said rights and applicable law as regards medical physicians and surgeons, expressly denies the same to your petitioner in the instant case, and generally to all drugless practitioners. The court by its decision in this case creates new duties as regards such practitioners, not warranted by the pertinent statutes licensing them or the law on malpractice in general, and moreover makes the non-observance of such added duties, whether consciously or unconsciously, a basis for an action as for malpractice, as may be seen from the following excerpts of its first opinion in the case:

"There was evidence before the jury sufficient to support a finding that respondent knew or should have known, or discovered, his method of treatment for diabetes was not of a character productive of reasonable success. When such a situation arises, it then becomes the duty of a drugless healer to cease and desist from treating the patient and to advise him to seek other relief. *Kelly* v. *Carroll*, 136 Wash. Dec. 445, 219 P. (2d) 79."

Importance of Question

Practically every element traditionally constituting malpractice in the treatment of disease is expressly negatived by the State Court's first decision. The patient's disease in this case was properly diagnosed, the examination was thorough and painstaking and the treatment was proper and customary among practitioners of that school. The results alone after 6 weeks treatment, came into dispute before the jury, as the above quoted excerpt of the court's first opinion shows.

The patient, feeling dissatisfied, same as she was with the medical care prior to calling on Petitioner, gave up any further sanipractic treatment of her own free choice and returned to medical treatment. After a period of hospitalization and upon condition of dependence on insulin, her condition "improved to such an extent as to enable her to live a comparatively normal life." (Court's first opinion.) There being no grounds so far to support a judgment as upon malpractice the lower court, by its decision, resorts to a fiction, so to speak, by holding, as the law in the case of sanipractic physicians that it was your petitioner's duty "to cease and desist from treating the patient and to advise him to seek other relief," upon assuming further that he "knew or should have known or discovered his method of treatment for diabetes was not of a character productive of reasonable success." (Court's first opinion.) Such a rule of law as a basis for malpractice in the case of drugless practitioners is tantamount to nullifying the entire act of the legislature of the State of Washington on drugless healing. One can conceive of few patients, as a practical matter, who would be fully satisfied at the end of treatment of their disease, whatever the school of healing they may have resorted to.

Under this rule on which the State Court's judgment, in reversal of the trial court's, is made to rest, practically all that a suing person would have to do would be to file an action against a sanipractor, with practically no alternative left to defendant than to pay the claim. In its practical effect, therefore, this decision, sought to be reviewed herein, puts this school of healing before the dilemma of either guaranteeing results by their method of treatment and even guaranteeing that the patient himself will agree that a sanipractor's method of treatment of disease was "of a character productive of reasonable success," or quitting

entirely such practice, all statutes to the contrary and laws generally applicable to malpractice cases notwithstanding.

Discrimination and Unconstitutionality of Decision

Generally both classes or schools of healing are engaged in the treatment of human disease by their respective methods. Neither in a sense denies or excludes the other. Only greater emphasis is placed by the one on natural methods for recovery, trusting, so to speak, in the inherent capacity of the human constitution to rally from its diseased condition upon establishment of favorable conditions on one hand by hydrotherapy, mechanotherapy, massaging and diet, and elimination of the factors which caused the health's breakdown on the other; while the traditionally orthodox profession emphasizes the use of medicine and surgery in its treatment of disease. That the latter is by far the most numerous of the two in no way proves that the existence of the other, upon state statute, and its methods of treatment are unnecessary or wrong.

Numbers and majorities may have many other advantages but in their last analysis they are merely methods of convenience, certainly no criteria of truth. One dreads to indulge in historic illustrations: Democracy first appears in the form of a common and deformed soldier defying the decisions reached by the kings in meeting before the walls of Troy. Christianity first defies Jewish hierarchy and later paganism in the persons of a few "fanatics" and as a cult. Independence on this continent of ours starts with a small number of "traitors to the crown" in Faneuil Hall; Europe's "Droits D'Homme" have their origin in the outburst of an inmate of a French prison with a "mob"; and one can cover tomes with examples in our endeavor to prove that the medical and surgical profession may after all be wrong, at least in some respects and indeed may

need a whip or "gadfly", as another small cult led by the founder of deductive logic started out in revolt against crammed sophism 25 centuries ago.

Statement

Respondent instituted an action consisting of two causes, one predicated upon an agreement of guarantee alleged to have been made with petitioner, which was dismissed upon peremptory instruction of the trial court to the jury at the close of the case, and the other upon malpractice. Upon the jury bringing a verdict for plaintiffs, defendant moved for judgment *non obstante* and in alternative for new trial. The trial court granted defendant's motion *non obstante veredicto,* hence, it denied new trial, alternatively moved as aforesaid. Upon appeal of respondents herein to the State Supreme Court, the trial court was reversed and judgment ordered to be entered for plaintiffs below in accordance with the verdict. Under rules of the Supreme Court of the State of Washington the decision of the Supreme Court was incomplete unless it "shall, if it reverses the judgment entered notwithstanding the verdict, review, and determine the validity of the ruling on the motion for a new trial." (Rule 14, Rules of Pleading, Procedure and Practice, appended hereto.) Before such nonfinal decision the State Supreme Court, after denying a petition for rehearing, filed following such incomplete opinion by your petitioner, recalled its remittitur and completed its decision by rendering a second *per curiam* opinion and immediately thereafter transmitted its final mandate to the trial court.

Your petitioner thereupon filed what in effect amounted to a second petition for rehearing, although entitled "Petition to Recall Remittitur Pending Steps for Appeal to U. S. Supreme Court." Indeed this last proceeding may

be deemed as the only regularly filed petition for rehearing upon a final decision of the State Court, by reason of the premises. In it and the argument submitted in support thereof, your petitioner specifically raised the question of impingement of the State Court's final judgment on the XIV Amendment of the U. S. Constitution, as follows:

"A. That said decision is discriminatory in that it lays down a different rule of law for sanipractic physicians in a malpractice case than is applicable to medical physicians and such question was raised before Your Honors by respondent's petition for rehearing.

"B. In that it places a stricter duty upon sanipractic physicians towards their patients than is required of medical physicians, and the violation of such duties is made the basis of an action as for malpractice." (Petition to Recall, etc., (R. 31).)

And further:

"In our petition to recall the decision we ask, moreover, for general relief and may we now submit that not only the remittitur should be recalled and, of course, the judgment entered by the trial court vacated; *but moreover the Court should consider our objection and contention that said decision is discriminatory and in violation of Article XIV of the Federal Constitution in that it announces and applies one set of principles of law on a sanipractic physician in a malpractice case, but a different law applicable to medical practitioners in such cases, as heretofore pointed out in our briefs and petitions to the Supreme Court.*" (Reply to Appellant's Memorandum resisting Recall of the Remittitur (R. 34).)

The Supreme Court declined to set the case for reargument as prayed for in said petition or write an opinion on the challenged constitutionality of its final judgment.

However, the court took particular notice of such question as shown by the order entered thereon as follows:

"The Court having considered the respondents' petition for a recall of the remittitur herein; the Appellants memorandum in answer thereto; and the respondents' reply to the Appellants' memorandum,

"It is ordered that the petition for the recall of the remittitur be and it is hereby denied."

ARGUMENT

Federal Question Raised and Considered by Lower Court

Final judgment was entered in this case by the State Supreme Court's release and transmittal of its remittitur, on November 30, 1950, filed in the trial court on December 2, 1950. Its first opinion, issued in the case on August 1, 1950, was admittedly incomplete, as shown by its subsequent *per curiam* opinion completing the same. To put in better relief the non-finality of the court's first decision, all we have to do is to suppose that the court had overruled, instead of affirming, the trial court's judgment denying the alternative motion for a new trial when granting judgment *non obstante*. This would at once nullify the State Supreme Court's first opinion or decision of August 1, 1950. That the Supreme Court could do so is unquestionable, and as long as it could do so it had control of the case; hence there was no final judgment until after its second decision, and in a sense the court's first opinion was academic until the entry of final judgment on November 30, 1950.

In 2 Am. Jur., p. 864, Section 24, the following is said *apropos* of this question:

> "As a general rule, the face of the judgment is the test of its finality. However for the purpose of determining the final character of a decree of an appellate

court directing the court below to proceed in accordance with the views expressed in its opinion, the *opinion* may be considered as part of the decree."

The foregoing statement is taken *verbatim* from *Clark* v. *Williard*, 292 U. S. 112, 78 L. ed. 1160, 54 S. C. 615, in which the court issued a writ of *certiorari*, overruling the opposite contention that the face of the judgment unaccompanied by the opinion (in our case 'opinions') is the test of its finality.

The petition, filed promptly thereafter by your petitioner with its accompanying argument in brief and asking for a recall of the same by calling to the court's attention the unconstitutional features of its judgment, particularly as violating Amendment XIV thereof, must, in our opinion be deemed, in its entirety, a proceeding by your petitioner to reopen the case for re-argument and to reconsider it pending steps for review before the U. S. Supreme Court upon such grounds. We admit that this proceeding lacks in formal presentation of the question. Outstanding features of it however, when considered in its substance, are (a) that the federal question was specifically presented to the State Supreme Court at (b) a time when it still had jurisdiction, since the error of unconstitutionality appeared on the face of the judgment, (c) the Supreme Court expressly entertained the question and in its own words "considered" it, and (d) denied the same or refused to set the case for re-argument on the question. That the court in doing so wrote no constitutional opinion is of no moment. Indeed, as is well known, rarely any opinion is written upon denial of rehearing or re-argument of a case, whatever the grounds therefor.

In *Grannis* v. *Ordean*, 34 S. Ct. 779, 234 U. S. 385, 58 L. ed. 1363, 1368, Your Honors held under strikingly similar circumstances, where the applicant had "suggested"

that the necessary effect of the decision was to deprive him of his property without due process of law, contrary to the XIV Amendment, that this was sufficient and granted the writ.

"There is a motion to dismiss, upon the ground that the Federal question was not properly raised in the state court. This motion must be denied. It is true that until the decision of the supreme court of the state, the Federal right was not clearly asserted. But it was not infringed in the trial court, which held in favor of the contention of defendant (now plaintiff in error) that the decree in the partition suit was not valid because of the insufficiency of the notice to Geilfuss. It was the decision of the supreme court, upholding the notice, that first ran counter to the alleged Federal right. In a petition for re-argument, filed by the now plaintiff in error, it was suggested that the necessary effect of the decision was to deprive him of his property without due process of law, contrary to the XIV Amendment. The supreme court entertained the petition, considered and overruled the contention that petitioner's rights under the Amendment were infringed declared that its decision was to be interpreted as holding against the contention, and therefore refused a re-argument. This is sufficient to confer jurisdiction upon this court. (Citing cases)

"We therefore proceed to the merits."

This petition has already assumed the form, and, we fear, proportions of a combined application for *certiorari* and brief in support thereof.

We would deem appropriate to close it at this point reserving for special treatment, the questions: (1) in what respect does the judgment of the lower court impinge upon rights of your petitioner guaranteed by the XIV Amendment of the U. S. Constitution, (2) is the question a sub-

stantial one or vital in its ultimate effects and repercussions as such violation.

Conclusion

For the foregoing reasons we submit and pray this Honorable Court that a writ of certiorari be issued to the Supreme Court of the State of Washington reviewing the judgment herein and/or for such further and alternative relief as may be just and proper in the premises.

Respectfully submitted,

JOHN E. LYDON,
Petitioner.

UNITED STATES OF AMERICA,
State of Washington,
County of King, ss:

John E. Lydon, having first duly sworn on oath deposes and says: That he is the Petitioner in the foregoing petition for a writ of Certiorari, that he has read the same and believes it to be true.

JOHN E. LYDON.

Subscribed and sworn to before me this 4th day of January, 1951.

CHRIST D. LILLIONS,
[SEAL.] *Notary Public in and for the State of Washington, residing in Seattle.*

EXHIBIT A

REMINGTON'S REVISED STATUTES OF THE STATE OF WASHINGTON

Vol. 10, p. 748

Chapter 8

DRUGLESS HEALING

10112. EXAMINATIONS—SECRETARY'S RECORDS.

10113. LICENSE FEE—QUALIFICATIONS — EXAMINATIONS — REFUSALS AND CANCELLATIONS.

10114. FORMS OF CERTIFICATES TO PRACTICE—AFFIDAVITS AND TESTIMONIALS. The following forms of certificates shall be issued by said board under the seal thereof, and signed by the president and secretary:

First. A certificate authorizing the holder thereof to practice mechanotherapy;

Second. A certificate authorizing the holder thereof to practice suggestive therapeutics;

Third. A certificate authorizing the holder thereof to practice food science;

Fourth. A certificate authorizing the holder thereof to practice physcultopathy;

Fifth. A certificate for any other separate and co-ordinate system of drugless practice, and such system shall be given two representations on the board: Provided, they shall show evidence of not less than fifty graduates, practicing in this state, whose requirements shall be no less than as set forth in this act. Practitioners hereunder shall confine their practice to the subjects and system or systems represented by their certificate or certificates granted by said board. The applicant for examination must file at least 30 days prior to a regular meeting satisfactory testimonials of good moral character and a diploma

issued by some legally chartered drugless college, or satisfactory evidence of having possessed such diploma, except as herein otherwise provided, and must fill out a blank application to be sworn to before some person authorized to take acknowledgments, showing that he or she is the person named in the diploma, is the lawful holder thereof, and that the same was procured in the regular course of instruction and examination, without fraud or misrepresentation. The said application shall be made on a blank furnished by said board, and shall contain such other information concerning the instruction and preliminary education of the applicant as said board may by rule adopt. (L. '19, p. 67, paragraph 4.)

10115. Disposition of Moneys Collected—Drugless Practitioner's Fund.

10116. Recordation of Licenses.

10117. Health and Vital Statistics Regulations.

10118. Persons Excepted from Provisions of Act.

Nothing in this act shall be construed as to prohibit service in the case of emergency, or the domestic administration of families' remedies, nor shall this act apply to any commissioned health officer in the United States army, navy or marine hospital service, in discharge of his official duties, nor to any licensed dentist when engaged exclusively in the practice of dentistry, nor to any duly licensed physician in the practice of medicine, or surgery, nor to a person duly licensed to practice osteopathy, from using or recommending drugless methods of healing in the course of their practice, nor shall this apply to any practitioner from any other state who visits this state in response to a call to treat a particular patient; Provided, such practitioner shall not open an office or appoint a place of meeting patients within the limits of this state, nor shall this act be construed to discriminate against any particular school of drugless therapeutics or to interfere in any way with the practice of religion: Provided, also that nothing in this act shall be held to apply to, or regulate

any kind of treatment by prayer. (L. '19, p. 69, paragraph 8.)

10119. Unprofessional Conduct Defined.

10120. Illegally Practicing. Any person not heretofore authorized by law who shall practice or attempt to practice or hold himself out as practicing drugless therapeutics in the State of Washington without having obtained the license herein provided for, contrary to any provisions of this act, shall be guilty of a misdemeanor, and shall be punished as provided by law for such offenses. Any person shall be regarded as practicing within the meaning of this act who shall use, prescribe, direct or recommend, any drugless treatment for the relief of any wound, fracture, bodily injury or disease, either mental or physical: Provided, this act shall not be construed to discriminate against any particular school of drugless therapeutics, or to interfere in any way with the practice of religion: Provided, also, that nothing in this act shall be held to apply to or regulate any kind of treatment by prayer. (L. '19, p. 71, paragraph 10.)

10121. Examination Regulations—Fee—Credits—Conduct of Examinations.

10122. Definitions. The term "separate and co-ordinate system" as used in this act is defined as follows:

Food Science: Is the science of treating disease through the chemical action of foods, water, nonmedicinal herbs, roots and barks, and all natural food elements other than pharmaceutic drugs and poisons, to bring about a normal condition of health.

Mechano-Therapy: Is a system of therapeutics which enables the practitioner to know how to apply scientifically the mechanics of hydrotherapy, dietetics, circumstances, idea and manual manipulation for the stimulation of phycho and physiological action to establish a normal condition of the body.

Suggestive Therapeutics: Is a system of healing which enables the practitioner to know how to offer suggestions

that will cause the mind of the patient to overcome the disease of the body and bringing mind and body into harmony, and both into harmony with environment.

Physcultopathy: Is a system of healing which enables the practitioner to know the scientific effect of movements on the body and how to direct a system of mechanical gymnastics that restore the diseased parts or functions to a normal condition. (L. '19, p. 73, paragraph 12.)

Cited in 113 Wash. 372, 194, Pac. 388. This section was not intended to draw a distinction between mental healing resulting from suggestions from the practitioner and reasoning between the practitioner and patient; and a practitioner depending upon the latter system is not entitled to demand a certificate as an exponent of another "separate and co-ordinate system" under the name which has been designated by the school adopting that system: Wells v. State Board of Drugless Examiners, 113 Wash. 371, 194 Pac. 388.

10123. Drugless Therapeutics Defined. The term "drugless therapeutics" as used in this act consists of hydrotherapy, dietetics, electrotherapy, radiography, sanitation, suggestion, mechanical and manual manipulation for the stimulation of physiological and psychological action to establish a normal condition of mind and body, but shall in no way include the giving, prescribing or recommending of pharmaceutic drugs and poisons for internal use, the purpose of this act being to confine practitioners hereunder to drugless therapeutics.

The words "certificate" and "license" shall be known as interchangeable terms. (L. '19, p. 74, paragraph 13.)

Cited in 144 Wash. 174, 257 Pac. 238.

10124. Advertising Matter.

10125. Penalty for Violations of Act.

10125-1. Proceedings to Revoke License—Order to Appear—Service.

10125-2. Re[illegible]tion for Refusal to Comply With Order—Reinsta[illegible]ent

10125-3. Hearing.

10125-4. License Revoked or Returned.

10125-5. Appeal to Superior Court.

10125-6. Surrender of License—Penalty.

10125-7. Supplemental Legislation. Nothing in this act shall be construed as amending, modifying or repealing any other provision of law for the revocation of licenses but this act shall be construed as additional and supplemental legislation. (L. '25, p. 25, paragraph 7.)